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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/608,279 | 06/27/2003 | James A. Francois | CG-851D | 8515 |
| 27868 | 7590 | 01/31/2006 | EXAMINER | |
| JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202 | | | NGO, LIEN M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3754 | |

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,279

Applicant(s)

FRANCOIS ET AL.

Examiner

LIEN TM NGO

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-9, 11-19, 21-23 and 25-27 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11-19, 21-23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|--|

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the closure comprises both the auxiliary thread and the principal extending from equivalent radial locations of the side wall and having different tiers or the side wall having different diameters (claims 14, 17) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 14,15 and 17-19 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The closure comprises both the auxiliary thread and the principal extending from equivalent radial locations of the side wall and having different tiers or the side wall having different diameter, which is not supported in the specification.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmalz (1,844,442). Schmalz discloses, in figs. 1-3, a molded closure comprising a side wall 1 having a first tier and a second tier; a principal thread 2 disposed on the

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second tier; an auxiliary thread 7 disposed on the first tier; a depth of the principal thread being at least about twice a depth of the auxiliary thread; the auxiliary thread being formed directly engaging a mold core thread (see fig. 3, and col.2, lines 108-124); The auxiliary thread engages to a liner 6; therefore it inhibits to engage with a container neck finish.

4. Claims 1, 3, 5-7, 9, 11, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Vol Till (2,130,749). Vol Till discloses, in fig. 6, a molded closure comprising a principal helical thread 10 and an auxiliary thread 14 extending from substantially equivalent radial locations of a cylindrical wall; wherein a depth of the principal thread being at least about twice a depth of the auxiliary thread. The auxiliary thread 4 may be separate from the principle thread 10 (see fig. 6), even preferably the auxiliary thread may be merged with the principle thread 10 as desired (col. 2 of page 2, lines 24-26).

The introductory statement of intended use of "to engage a mold core thread and enable removal of said closure form said mold core after a short shot" has been carefully considered, but deemed not to impose any structural limitations on the claims distinguishable over the Von Till closure. It has been held that a recitation with respect to the manner which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ 2d 1647 (1987).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-9, 11-13, 16, 22, 23, 25 and 26 are rejected under 35 U.S.C.

103(a) as being unpatentable over Vol Till (2,130,749) in view of Schmalz (1,844,442).

Vol Till discloses, in figs. 5 and 6, a molded closure comprising a principal helical thread 10 and an auxiliary thread 14 extending from substantially equivalent radial locations of a cylindrical wall; wherein a depth of the principal thread being at least about twice a depth of the auxiliary thread. The auxiliary thread 4 may be separate from the principle thread 10 (see fig. 6).

Vol Till does not disclose the auxiliary thread being helical, and to the degree it can be argued that Vol Till does not teach the auxiliary thread engaging a mold score thread.

Schmalz teaches a mold closure having an auxiliary thread being helical and engaging a mold core thread.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the closure of Vol Till having the auxiliary thread being helical and engaging a mold core thread, as taught by

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Schmalz, in order to facilitate of firmly engaging with a liner, and to prevent of distorting any of the threads when the closure is removed from the mold.

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 5-9, 11-19, 21-23 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL MAR can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO
Primary Examiner
Art Unit 3754



January 26, 2006